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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/986,598	11/09/2001	Barry Smith Fagg	JJ-122-R &D (000064.00139)	5991

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EXAMINER

HALPERN, MARK

ART UNIT	PAPER NUMBER
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1731

DATE MAILED: 01/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/986,598

Applicant(s)

FAGG ET AL.

Examiner

Mark Halpern

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6, 7, 9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6, 7, 9 and 10 is/are allowed.
- 6) ☒ Claim(s) 1, 3 and 4 is/are rejected.
- 7) ☒ Claim(s) 2 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

- 1) Acknowledgement is made of Amendment received 11/15/2002, Paper No. 10.  
Applicants amend claims 6, 9, and cancel claims 5, 8.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

- 2) Claims 1, 4, are rejected under 35 U.S.C. 102(b) as being anticipated by  
Townsend (4,700,726).

Claim 1: Townsend discloses a cigarette rod having a first end (lid end) 56, and a second end (filter end) 58. The first end is densified at a first density, and the second end is densified at a second density. An intermediate portion of the cigarette, 60, is of a third density. The longitudinal length of the first end is 18-42 percent of the total length of the cigarette rod, and the longitudinal length of the second end is 2-5 percent of the total length of the cigarette rod (col. 2, lines 26-44, col. 4, line 61 to col. 5, line 10, and Figure 1).

Claim 4: the tobacco rod is disclosed to be of length from about 55 mm to about 85 mm (col. 2, lines 26-35).

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***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3) Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Townsend in view of De Witt (3,604,429). Townsend is applied as above for claim 1, Townsend fails to disclose the cigarette rod first longitudinal length of about 11 mm and the second longitudinal length of about 8 mm. De Witt discloses a cigarette rod having dense ends, said ends being of longitudinal lengths from 5 to 10 mm (col. 3, lines 1-10 and Figure 1). It would have been obvious, to one skilled in the art at the time the invention was made, to combine the teachings of Townsend and De Witt, because such a combination would provide a greater range of dense ends lengths in the design of Townsend.

***Allowable Subject Matter***

4) Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5) Claims 6-7, 9-10, are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

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The primary reason for indicating allowable subject matter is that the cited prior art does not show: a cigarette rod product having a first end, which is the lit end, a second end that is the filter end, and an intermediate portion located between the first end and the second end, wherein the first end is of density greater than the density of the second end (claims 2, 6, 9).

### ***Response to Amendment***

- 6) Claims 1-4, allowability indicated in prior Office Action, is withdrawn in view of further search of art in prior art.
- 7) Claims 5, 8, rejection under 35 U.S.C. 102(b) as being anticipated by Norman (4,759,380), is withdrawn in view of cancelled claims.

### ***Conclusion***

- 8) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Halpern whose telephone number is 703-305-4522. The examiner can normally be reached on Mon-Fri, (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 703-308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7718 for regular communications and 703-305-3599 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

A handwritten signature in black ink, appearing to read "M. Halpern". The signature is fluid and cursive, with the first letter "M" being large and prominent.

Mark Halpern  
Patent Examiner  
Art Unit 1731

January 2, 2003